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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MICHL, PAUL R

ART UNIT	PAPER NUMBER
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1714

8

DATE MAILED: 05/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

MTF-8

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4/22/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- Of the above claim(s) 2-5, 12-15 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 6-11, 16, 17 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

Art Unit 1714

Claims 2-5 and 12-15 stand withdrawn from further consideration for being directed to the non-elected inventions. Claims 12-15 stand withdrawn from consideration because they depend upon claim 2. Applicants' traversal of the restriction requirement is noted. However, this Examiner's position is that the restriction requirement is proper. The composition of claim 1 has possible utility other than in the manufacture of a carpet. For example the composition of claim 1 could be used as a coating on a substrate such as a house paint or as an adhesive. Claims 4 and 5 do not require all of the ingredients recited in claim 1. Claim 1 is an aqueous composition. There is no water present in claims 4 and 5. In claims 4 and 5 presumably the cross-linking agents and the polyisocyanate has reacted with the polymer or with any other ingredient having reactive groups. The restriction requirement is FINAL.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit 1714

Claims 1, 6-11, 16 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Rau or Suzuki or Mayer. Applicants' claims are directed to an emulsion composition comprising water, polymer, dispersing agent, cross-linking agent, antifoam agent, filler, and polyisocyanate. Rau, Suzuki, and Mayer all disclose compositions comprising water, a polymer within the scope of claim 1, a compound which qualifies as a dispersing agent, cross-linking agent, antifoam agent, filler, and polyisocyanate. These references disclose dispersing agents or dispersants or emulsifying agents or surface active agents which all qualify as "dispersing agent". These references all disclose polyisocyanate which also qualifies as "cross-linking agent". The presence of antifoam agent and fillers in aqueous polymeric compositions is conventional. See the Abstract of Rau. See column 5, lines 33-40 and column 6, lines 8-66 of Rau. Suzuki discloses pigment in the Abstract. Pigment qualifies as "filler" within applicants' claims. Suzuki discloses emulsifier in column 5, lines 3-25. Suzuki discloses silica, barium sulfate, and calcium carbonate in column 6, lines 30-39. Suzuki discloses fillers in column 9, lines 20-29. Suzuki discloses antifoam in column 7, line 2. Mayer discloses polyisocyanate in the Abstract. Mayer discloses polymers in column 5, lines 40-67 and column 6, lines 1-15. Mayer discloses polyurethane resins in column 15. Mayer discloses pigments in column 16, lines 1-22.

Art Unit 1714

The polymers disclosed by all three references qualify as "acrylic resin" within applicants' claims. It would be obvious to one of ordinary skill in the art to formulate aqueous compositions according to these references comprising acrylic resin, dispersing agent, cross-linking agent, antifoam agent, filler, and polyisocyanate. The motivation is that the Markush group of fillers recited in applicants' claim 1 are all conventional fillers or pigments and it would be within the skill of one in the art to select a conventional material such as calcium carbonate or sand or barium sulfate as the filler or pigment in these references.

Claims 1, 6-11, 16 and 17 are rejected under 35 U.S.C. § 112 because the phrase "cross-linking agent" fails to particularly point out and distinctly claim what applicants consider the invention to be. The claimed "cross-linking agent" encompasses the polyisocyanates recited in claim 1. When polyisocyanate is used as the "cross-linking agent", the composition does not contain "cross-linking agent" and "polyisocyanate" as distinct and separate compounds, but rather only contains polyisocyanate. Applicants do not consider polyisocyanates to be the "cross-linking agent". Therefore, the cross-linking agent as claimed in the claims should not encompass polyisocyanate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Michl

Art Unit 1714


whose telephone number is (703) 308-2451. The examiner can normally be reached on Monday through Friday from 7:30 A.M. to 4 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The fax phone number for this Group is (703) 305-5433.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

PRMichl:cdc

May 23, 2002


PAUL R. MICHL
PATENT EXAMINER
ART UNIT 156